

1 question.

2 BY MR. FREDERICK:

3 Q What do you know about the nature  
4 of the lawsuit, Mr. Bond?

5 A There was litigation surrounding  
6 whether the -- I believe the case was about  
7 whether CSNMA had a renewal right for some  
8 period of time for the Orioles programming.

9 Q And do you know if in the course  
10 of those allegations that Comcast Sports Net  
11 Mid-Atlantic made, Comcast represented what  
12 its desire was to produce and televise  
13 Nationals games?

14 A Do I know what Comcast  
15 represented? Is that the question?

16 Q Yes.

17 A I don't know.

18 MR. FREDERICK: Your Honor, may I  
19 direct the witness to look at Paragraph 36 of  
20 this complaint.

21 THE WITNESS: I have it.

22 BY MR. FREDERICK:

1           Q       Could you read the last sentence  
2 of Paragraph 36, please.

3           A       "Comcast representatives engaged  
4 in numerous meetings with MLB making clear  
5 CSN's desire to produce and televise Nationals  
6 games in a manner that would insure  
7 distribution to the largest possible fan base,  
8 and the enhancement of the Nationals  
9 television rights throughout the Washington-  
10 Baltimore region."

11          Q       Does that refresh your  
12 recollection about the aims that Comcast had  
13 with respect to Nationals rights?

14          A       I'm sorry. I don't recall  
15 representations made by Comcast relating to  
16 that.

17          Q       Okay.

18                   JUDGE SIPPEL: MLB is Major League  
19 Baseball. Is that right?

20                   MR. FREDERICK: That's correct,  
21 Your Honor.

22                   BY MR. FREDERICK:

1           Q       Mr. Bond, could you look at  
2 Paragraph 53 of the complaint.

3           A       Yes, sir.

4           Q       And read the first sentence of  
5 Paragraph 53.

6           A       "Absent Defendant's breach of  
7 contract or tortious interference with  
8 contract, CSN would have the opportunity to  
9 retain the Orioles broadcast rights beginning  
10 with the 2007 season, and extending for the  
11 same indefinitely long-term period that MASN  
12 has represented that it has licensed the  
13 Orioles future local pay television rights."

14          Q       Does that paragraph refresh your  
15 recollection as to the intention CSNMA had  
16 with respect to the Orioles rights?

17                 MR. TOLLIN: Objection, Your  
18 Honor. I mean, he is not a representative of  
19 CSNMA. He's a representative of the  
20 distribution side. This complaint involves  
21 CSNMA.

22                 MR. FREDERICK: Your Honor, I just

1 asked if -

2 JUDGE SIPPEL: Well, I'm going to  
3 overrule that objection, because it doesn't  
4 mean that this witness can't answer questions  
5 about what he knows on the subject that he's  
6 being examined on. So, let's move forward on  
7 that.

8 MR. FREDERICK: Sure.

9 BY MR. FREDERICK:

10 Q I just asked -- do you remember  
11 the question, Mr. Bond?

12 A Yes. Did this refresh my  
13 recollection?

14 Q That's correct.

15 A What I said earlier is basically  
16 correct, that my understanding was there was  
17 litigation between CSN and the Orioles  
18 relating to the Orioles agreement to retain  
19 the rights to the Orioles passed the 2006  
20 season.

21 Q You're a lawyer. Correct?

22 A Yes.

1           Q       You graduated from the University  
2 of Colorado Law School. Correct?

3           A       I did.

4           Q       And, presumably, you've seen legal  
5 complaints before.

6           A       I have.

7           Q       And in those complaints, does the  
8 Plaintiff have to assert to the truth of the  
9 matters asserted in the complaint?

10          A       Yes.

11          Q       Is it a fact that the very next  
12 day, April the 22nd, 2005, Comcast Sports Net  
13 Mid-Atlantic sent out letters to every  
14 distributor in MASN's television territory  
15 warning them of lawsuits if they contracted  
16 with MASN?

17          A       I don't know.

18          Q       Is it a fact that Comcast also  
19 sent letters to every member of Congress  
20 complaining about the deal by which the  
21 Nationals rights were pooled with the Orioles?

22          A       I don't know.

1           Q       Is it true that Comcast did not  
2   meet with MASN representatives between April  
3   2005 and after the Adelphia Order was issued?

4           A       I think we had some conversations.  
5   I think I had some conversations with David,  
6   but we met after the Adelphia Order.

7           Q       Is it a fact -- I'm sorry. I  
8   didn't mean to interrupt you.

9           A       That's fine. I was finished.

10          Q       Is it a fact that Comcast did not  
11   distribute Washington Nationals games telecast  
12   by MASN throughout the Nationals first season  
13   in Washington?

14                 MR. TOLLIN: Objection, Your  
15   Honor. What does this have to do with the  
16   negotiations over carriage in 2006?

17                 JUDGE SIPPEL: Let's have a  
18   statement of relevance on that.

19                 MR. FREDERICK: Your Honor, this  
20   all goes to the foundation of Comcast's  
21   attitude in contracting with MASN. The facts  
22   establish that Comcast sought the very same

1 programming rights that MASN had acquired, and  
 2 I'm asking Mr. Bond, as the person who  
 3 negotiated the deal, whether he was aware that  
 4 his company had sought the very same  
 5 programming, and had engaged in retaliation by  
 6 not carrying the Nationals throughout their  
 7 first National. It's completely relevant to  
 8 discriminatory intent.

9 MR. TOLLIN: They lost those  
 10 rights, and then got into carriage  
 11 negotiations. And we all know where that led,  
 12 that led to Schedule A. So, I don't quite  
 13 understand the fact that they lost the rights  
 14 to the Orioles, but then gave them 90 percent  
 15 carriage. I'm not sure how that relates.  
 16 Now, unless he can prove some sort of bad  
 17 faith in the negotiations, that's one thing.  
 18 But just proving that they lost the rights to  
 19 the Orioles is not enough.

20 MR. FREDERICK: Your Honor, he'll  
 21 be entitled to make his legal argument in the  
 22 post-trial brief. May I be permitted to ask

1 the witness?

2 JUDGE SIPPEL: No, this is all  
3 going to relevance. Look, so far you haven't  
4 touched this witness. I've got nothing out of  
5 him. Sorry, sir.

6 (Laughter.)

7 JUDGE SIPPEL: I mean, you're  
8 trying to establish certain -- you said you  
9 were trying to establish -- he said he was  
10 only tangentially interested in negotiation,  
11 or involved in negotiations. I don't know  
12 what the heck that means, tangentially, but it  
13 usually doesn't mean that he's directly  
14 involved. And then, secondly, he doesn't know  
15 anything about this complaint, except for the  
16 fact that he has some awareness of it. And  
17 you're cross examining him on that, and I  
18 don't see where you've hit on anything by  
19 doing that. So, I don't know where -- you  
20 might have the right issues, but the wrong  
21 witness.

22 MR. FREDERICK: Your Honor, may I



1 continue just -

2 JUDGE SIPPEL: Do you want us to -  
3 - should he leave the room?

4 MR. FREDERICK: Well, I just have  
5 a couple of more questions. I'll get into the  
6 2006 negotiating -- I just want to establish  
7 a chronology of what the witness knew leading  
8 up to negotiations that occurred in 2006. If  
9 I may be permitted just a few more questions.

10 JUDGE SIPPEL: Yes, sir. But  
11 remember that it was -- he's saying --  
12 factually, the only thing that I'm getting  
13 from him is that CSN, CSN was the one involved  
14 with the negotiations that are the subject of  
15 this case, this Montgomery County case. And  
16 he doesn't -- he is not directly involved with  
17 CSN. He's working up on the corporate level  
18 with Comcast General, whatever -- what did you  
19 call it, General, Corporation? Who do you  
20 work for?

21 THE WITNESS: I work for Steve  
22 Burke.

1 JUDGE SIPPEL: And who -

2 THE WITNESS: At the Cable

3 Company, Comcast Cable Company.

4 JUDGE SIPPEL: Comcast Cable

5 Company. Okay. And do you have any connection

6 with CSN?

7 THE WITNESS: Well, they're part

8 of the same ultimate corporation, a vendor to

9 us.

10 JUDGE SIPPEL: Right. But do you

11 involve yourself with their negotiations?

12 THE WITNESS: No.

13 JUDGE SIPPEL: No. You don't get

14 involved. Who does their negotiations for

15 them?

16 THE WITNESS: Jeff Shell runs that

17 group, and he has folks who work for him who

18 handle that.

19 JUDGE SIPPEL: Thank you.

20 BY MR. FREDERICK:

21 Q Do you interact with Mr. Shell?

22 A Yes.

1           Q       Is Mr. Shell the equivalent or  
2 counterpart to you on the programming side?

3           A       No, I think he's higher, corporate  
4 hierarchy.

5           Q       He reports to Mr. Burke.

6           A       Yes.

7           Q       You report to Mr. Burke.

8           A       Correct.

9           Q       If there's an issue about CSNMA  
10 carriage, presumably, you, and Mr. Burke, and  
11 Mr. Shell will work that out. Correct?

12          A       If I couldn't work it out with  
13 Jeff.

14          Q       But you would talk to him  
15 directly.

16          A       Or someone who works for him.  
17 Someone who works for him that's more my  
18 counterpart.

19          Q       In April 2006, is it true that  
20 Steve Burke, your boss, sent a letter to the  
21 Commissioner of Major League Baseball trying  
22 to encourage the Commissioner to abrogate the

1 deal that baseball had negotiated with MASN?

2 A I don't know.

3 MR. FREDERICK: Mr. Bond, we'll  
4 come back. MASN 2 has been admitted into  
5 evidence. It is a letter from Mr. Burke to  
6 the Commissioner of Major League Baseball.  
7 Rather than ask -

8 BY MR. FREDERICK:

9 Q Let me just ask you, are you aware  
10 -- you said that you were not aware that he  
11 had written a letter. Is that correct?

12 A Yes.

13 Q And you had never discussed that  
14 with him.

15 A I don't recall talking about it.

16 Q Okay. So, you're not aware that  
17 Mr. Burke asked Major League Baseball to  
18 abrogate that deal. Is that your testimony?

19 A Yes.

20 Q Okay. Are you aware that David  
21 Cohen testified before Congress at or about  
22 the same time as that letter, saying that the

1 deal between MASN and Major League Baseball  
2 was "original sin"?

3 MR. TOLLIN: Again, objection,  
4 Your Honor. This has nothing to do with the  
5 negotiations that he led in 2006, nothing.

6 MR. FREDERICK: I will show the  
7 connection of this, Your Honor, if you just  
8 give me an opportunity lay some foundation.

9 JUDGE SIPPEL: Yes, but -- all  
10 right. So far -- I've let you go down that  
11 road, but you've got to tie it up pretty soon.  
12 Who is David Cohen? I know I've heard this  
13 before, but who is Mr. Cohen?

14 THE WITNESS: David Cohen works  
15 for Comcast Corporation, the parent company,  
16 and he runs various functions inside the  
17 company. He runs the Legal Affairs Group, he  
18 runs Human Resources, he runs Public  
19 Relations, and Legislative Affairs. He has  
20 some other duties, as well, but those are his  
21 principal duties.

22 JUDGE SIPPEL: All right.

1                   MR. FREDERICK: Your Honor, may I  
2 approach the witness with MASN Exhibit 2?  
3 There's one thing that I hope may refresh his  
4 recollection out of that exhibit.

5                   JUDGE SIPPEL: Thank you. This is  
6 MASN 2.

7                   MR. FREDERICK: Yes, that's  
8 correct.

9                   JUDGE SIPPEL: It's in evidence.

10                  MR. FREDERICK: It's in evidence.

11                  BY MR. FREDERICK:

12                 Q     Mr. Bond, could I direct your  
13 attention to the second page of this letter  
14 between Mr. Burke and the Commissioner of  
15 Baseball?

16                 A     I have it.

17                 Q     In the second full paragraph  
18 beginning, "In an attempt".

19                 A     I just realized I forgot to turn  
20 this off. I'm sorry.

21                 Q     Could you read the sentence, "In  
22 an attempt to do what's best"?

1           A       Yes. "In an attempt to do what is  
2   best for your fans and our customers, we would  
3   like to propose a resolution that allows the  
4   games of the Nationals to be seen across the  
5   Nationals territory immediately, and that  
6   insures that the Nationals and their fans are  
7   treated fairly and equitably in the future."

8           Q       You can stop there. That's  
9   enough. Does this statement refresh your  
10  recollection that Comcast intended to telecast  
11  Nationals games throughout the Nationals  
12  television territory?

13                   MR. TOLLIN: Objection, Your  
14  Honor, it doesn't say that.

15                   JUDGE SIPPEL: Well, let him see  
16  if the witness can -- do you understand the  
17  question?

18                   THE WITNESS: It doesn't refresh  
19  my recollection. It's actually pretty  
20  detailed. There's other points here.

21                   BY MR. FREDERICK:

22           Q       Mr. Bond -

1           A       I don't think it says what David  
2   says it says.

3           Q       Do the words, "across the  
4   Nationals territory" appear in that paragraph?

5           A       It does. It doesn't refresh my  
6   recollection, but then it also later says, it  
7   says, "will carry the games on Comcast Sports  
8   Net."

9           Q       As well as MASN?

10          A       Is that what it -

11          Q       Yes. And if MASN was to be  
12   involved in that carriage, you would have had  
13   to have been involved. Correct?

14          A       I'm sorry. What was the question?  
15   I apologize.

16          Q       If Comcast's proposal was for  
17   there to be simultaneous telecasts by MASN and  
18   CSNMA, your group would have needed to carry  
19   MASN. Correct?

20          A       Yes. I assume that's what this  
21   says. I haven't had time to read it.

22          Q       Did you -



1 JUDGE SIPPEL: Do you want more  
2 time to read it?

3 THE WITNESS: If you don't mind.

4 JUDGE SIPPEL: Mr. Bond, I asked  
5 you a question. Do you want more time to read  
6 it?

7 THE WITNESS: Yes.

8 JUDGE SIPPEL: All right. Let's  
9 go off the record, and let him read it.

10 (Whereupon, the proceedings went  
11 off the record at 10:08:00 a.m., and went back  
12 on the record at 10:09:04 a.m.)

13 JUDGE SIPPEL: Let's go back on  
14 the record.

15 BY MR. FREDERICK:

16 Q In April of 2006, does this letter  
17 help refresh your recollection as to whether  
18 Mr. Burke talked to you about the possibility  
19 of launching MASN across the Nationals  
20 television territory immediately?

21 A I don't recall discussions about  
22 launching MASN across the territory

1 immediately. I actually don't recall that.

2 Q Okay. Do you recall Mr. Burke  
3 talking to you about having Nationals games  
4 telecast across the Nationals television  
5 territory on CSNMA immediately?

6 A I don't recall that.

7 Q Are you aware that MASN alleges  
8 that this is a discrimination case?

9 A Yes.

10 Q Is it true that you've had no  
11 training on discrimination on the basis of  
12 affiliation?

13 A Yes.

14 Q And you understand that  
15 discrimination is favoring one over another?

16 A Improperly, yes.

17 Q In your deposition, you described  
18 Comcast's relationship with its Comcast Sports  
19 Net as arm's length. Do you recall that  
20 testimony?

21 A I think the question in the  
22 deposition was how would I describe the

1 relationship with the programming arm, and I  
2 said it's arm's length. We're, obviously,  
3 corporate siblings. We're part of the same  
4 company. There are deals that we work  
5 together on, so there is, certainly, a  
6 corporate relationship there.

7 Q Is your relationship between  
8 Comcast Cable and Comcast Sports Net an arm's  
9 length relationship, in your opinion?

10 A I think, generally, I'm  
11 responsible for trying to negotiate the best  
12 deal on behalf of the cable company. We are  
13 corporate siblings. There's a proximity  
14 there, obviously, and there are some  
15 differences. And we have worked together on  
16 deals, of course.

17 Q Mr. Bond, in your deposition -  
18 MR. TOLLIN: Can you provide the  
19 deposition transcript to him so he can see it  
20 in context?

21 MR. FREDERICK: Sure.

22 BY MR. FREDERICK:

1           Q       The question is asked, "How would  
2   you describe those dealings? Answer: Arm's  
3   length." Do you recall that testimony?

4           A       Yes, I do.

5           Q       Would you like to see the  
6   transcript?

7                   JUDGE SIPPEL: Well, I think  
8   counsel is asking you to put it in front of  
9   him, and ask -

10                  MR. FREDERICK: It's page 44.

11                  JUDGE SIPPEL: I don't need a copy  
12   of it yet.

13                  MR. FREDERICK: Would you like a  
14   copy of your deposition, Mr. Bond? You may be  
15   needing it.

16                  JUDGE SIPPEL: I think you should  
17   give it to him.

18                  THE WITNESS: Okay. I'm sorry, is  
19   there a pending question? I forgot.

20                  BY MR. FREDERICK:

21           Q       Do you disavow the testimony you  
22   gave in your deposition?

1 A No, I'm not disavowing it.

2 Q Isn't it true you started working  
3 for Comcast at the end of 2002?

4 A Yes.

5 Q [REDACTED]  
6 [REDACTED] [REDACTED]?

7 A [REDACTED]  
8 [REDACTED]  
9 [REDACTED]

10 Q [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 A Yes. And that's what I said  
15 today. [REDACTED]

16 Q [REDACTED]  
17 [REDACTED] [REDACTED]  
18 [REDACTED]

19 A [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]?

1 A [REDACTED]

2 Q [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A [REDACTED]

6 Q [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A [REDACTED]

10 Q [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A [REDACTED]

15 Q [REDACTED]

16 [REDACTED]

17 A [REDACTED]

18 Q [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A [REDACTED]

22 Q [REDACTED]

1 [REDACTED], CSNMA has increased the number of  
2 subscribers on which its being distributed.

3 A [REDACTED].

4 Q [REDACTED]

5 [REDACTED] [REDACTED] P

6 A [REDACTED].

7 Q [REDACTED]

8 [REDACTED] [REDACTED]

9 [REDACTED] P

10 A [REDACTED] [REDACTED]

11 [REDACTED].

12 Q [REDACTED] [REDACTED]

13 [REDACTED] [REDACTED] P

14 A Yes. I'm sorry. Wasn't that your  
15 last question?

16 Q My last -

17 JUDGE SIPPEL: That's what I  
18 heard. No? You said it was -- the year was  
19 2004?

20 THE WITNESS: Yes.

21 BY MR. FREDERICK:

22 Q The question was CSNMA.

1 A Yes.

2 JUDGE SIPPEL: Yes.

3 BY MR. FREDERICK:

4 Q [REDACTED]

5 [REDACTED]

6 A [REDACTED]

7 JUDGE SIPPEL: I stand corrected.

8 MR. FREDERICK: I may have  
9 misstated it, Your Honor, and Mr. Bond. Let  
10 me just put the question out there on the  
11 record.

12 BY MR. FREDERICK:

13 Q [REDACTED]

14 [REDACTED] [REDACTED]?

15 A [REDACTED].

16 Q [REDACTED]

17 [REDACTED].

18 Correct?

19 A [REDACTED].

20 Q [REDACTED]

21 [REDACTED]

22 [REDACTED] [REDACTED]



1 A [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 JUDGE SIPPEL: Wait a minute.

5 That's not the question.

6 THE WITNESS: Okay.

7 JUDGE SIPPEL: That's not the  
8 question. What guides you in connection with  
9 what you do vis a vis CSNMA, and what you do  
10 vis a vis MSN?

11 THE WITNESS: Well, with respect  
12 to CSNMA, CSNMA has been carried for a long  
13 time. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]. We

17 continued to carry, we continued to pay for  
18 it. We dropped in a few out-of-market  
19 systems. We dropped it in Harrisburg. We  
20 dropped it -

21 JUDGE SIPPEL: Were they  
22 negotiated, those decisions to drop them?